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December 1, 2000

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**Ex Parte: Implementation of the Local Competition Provisions in the  
Telecommunications Act of 1996 - CC Docket No. 96-98**

**WorldCom, Inc. Petition for Waiver of the Supplemental Order  
Clarification Regarding UNE Combinations - DA 00-2131**

Dear Ms. Salas,

The attached letter was delivered to Dorothy Attwood, Chief, Common Carrier Bureau,  
and members of her staff on November 30, 2000.

Pursuant to Section 1.1206(a)(1) of the Commission's rules, an original and one copy of  
this letter are being submitted to the Office of the Secretary. Please associate this  
notification with the record in the proceeding indicated above. If you have any questions  
regarding this matter, please call me at (202) 463-5293.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Scott Randolph".

W. Scott Randolph

cc: Dorothy Attwood

Edward Shakin  
Vice President & Associate General Counsel



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November 30, 2000

Ms. Dorothy Attwood  
Chief, Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW – Room 5-C450  
Washington, DC 20554

**CC Dkt. No. 96-98, DA 00-2131**  
**WorldCom, Inc. Petition For Waiver of the Supplemental Order Clarification**

Dear Ms. Attwood:

In the November 16 debate on its petition, WorldCom conceded that it had the ability to measure the local content of the traffic on lines for which it was seeking a waiver of the requirements of the Clarification Order. Consequently, WorldCom acknowledged that there were no impediments to meeting the local traffic requirements included in Option 3 of the Clarification Order. As a result, WorldCom has no claim that there are "extraordinary circumstances" that would allow conversion of special access circuits to unbundled network elements ("UNEs") absent a certification of local traffic as required under the Clarification Order. Moreover, because collocation is not a requirement of Option 3, there is no basis for a waiver of the more general collocation requirement that is included in Options 1 and 2.

Indeed, the *only* requirement of the Clarification Order that WorldCom still claims that it cannot meet is the prohibition against commingling of special access services and UNEs on the same DS-3 facilities. But this argument was specifically addressed and rejected in the Clarification Order. As the Commission recognized, allowing such commingling can "lead to the use of unbundled network elements by IXCs solely or primarily to bypass special access services." Clarification Order, ¶ 28. To the extent that MCI has multiple DS-1 circuits that meet the requirements for local usage, they can be multiplexed together on a qualifying DS-3. Whether the cost of conversion outweighs the savings over special access service is an economic decision that WorldCom must evaluate. In no event however, is WorldCom compelled to rearrange its network unless it chooses to do so in order to qualify for additional cost savings.

The Commission also expressed concern that it not “prejudge any final resolution on whether unbundled network elements may be combined with tariffed services.” *Id.* In the debate, WorldCom claimed to avoid this issue by a series of limits on its commingling request. First, WorldCom agreed that UNE pricing would only apply to a qualifying DS-1. If such circuit is combined onto a DS-3 in combination with other DS-1 circuits that do not qualify for UNE treatment, WorldCom agreed that the DS-3 would be billed as a special access service, not as a UNE. Second, WorldCom agreed that such commingling would be limited to the factual scenario outlined in its waiver request (traffic flowing from a customer, through Verizon wire center(s) where it is muxed up to DS-3 transport that terminates in an WorldCom Class 5 switch). In particular, WorldCom agreed that channel termination circuits could not be converted to a UNE and connected to another access service.<sup>1</sup> Finally, WorldCom agreed that a waiver here would not provide it any rights to create a platform-like service in those areas where the Commission eliminates the requirement for a local switching UNE.

Although the question did not come up at the debate, presumably WorldCom would (and certainly should) agree that its waiver request be limited to special access circuits in existence as of the date of the Clarification Order. The entire premise of its petition is WorldCom’s claim that it is too costly to reconfigure its network to meet the requirements of the Clarification Order. But to the extent WorldCom purchased new circuits after the Clarification Order, it had fair notice that the only way it could convert the circuits to UNEs would be to meet one of the options to demonstrate substantial local use. WorldCom should not under any circumstances be allowed to put in new configurations that do not meet the Commission’s requirements, and then obtain extraordinary relief because reconfiguration is too costly.

Despite these disclaimers, and even presuming that the Commission would specify that any decision here should have no precedential impact on the policy question of whether UNEs may be combined with network services, the waiver would require Verizon to provide the exact combination that the Commission said would not be required absent further rulemaking. It is difficult to see how such a waiver would not prejudice the issue, at least in part.

Allowing such commingling also would also create provisioning problems. Under the current regime, Verizon either provides a customer a UNE or an access service, but not both. While Verizon works out the process to physically convert special access services to UNEs, it is allowing customers to receive the benefit of such conversions by giving them bill credits equivalent to a physical UNE conversion. If the Commission were to allow a single DS-3 to be connected to both a UNE and another special access service, Verizon could rely on neither its special access nor its UNE billing programs, thereby complicating a process that is already difficult.

Moreover, consistent with the differences in the products, Verizon has separate organizations and responsibilities for servicing and maintaining special access services and UNEs. A UNE purchaser has testing and other “virtual network” responsibilities. In contrast, Verizon has those

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<sup>1</sup> This restriction would exclude access services such as Verizon’s Facilities Management Service (“FMS”).

responsibilities for its special access services. Any service issues on a commingled circuit would have a gating problem of determining whether Verizon or the customer had responsibility. In addition, even within Verizon, service on such a commingled circuit would require coordination between the separate service organizations, imposing the possibility for additional confusion and/or delay.

The Commission will address the commingling issue in its upcoming further rulemaking. There is no reason to prejudge the issue and allow a single party to obtain what the Commission has determined should not be generally available in the interim (or arguably at all). The WorldCom petition should be denied. Please call me if you have any questions or would like to discuss this issue further.

Sincerely,

Edward Shakin

cc: Jodie Donovan-May  
Tom Navin  
Michelle Carey  
Glen Reynolds  
Frank Lamancusa